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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,705	06/27/2003	Mario Spatafora	20022/38497A	7916

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EXAMINER

DESAI, HEMANT

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/607,705

Applicant(s)

SPATAFORA, MARIO

Examiner

Hemant M Desai

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26,28-39 and 43-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 43-48 is/are allowed.
- 6) ☒ Claim(s) 26,28 and 33-39 is/are rejected.
- 7) ☒ Claim(s) 29-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 10/145,254.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 26, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ettelbruck (6692210).

Ettelbruck discloses a series of operating devices (2, 9, 10, fig. 1), a crane supported by the frame (4, fig. 1) and for facilitating removal/assembly of the operating devices (9, fig. 1) wherein the crane comprises a horizontal guide (4) and an arm (7, fig. 2) running along the guide (3, fig. 2), and first operating devices (9) fitted to the frame (10, fig. 3) to move between a work position (on processing station 1, fig. 10), and a maintenance position (on trolley 10, fig. 3) in which the first operating device (9) permit free access to the crane.

Ettelbruck, as mentioned above, discloses all the claimed limitations, except for a frame having front wall and the operating devices are supported by the frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a frame to support different parts of machine since it was known in the art to provide a frame to support the different parts of machine.

Regarding claim 28, Ettelbruck discloses that the arm is movable between a rest position (fig. 4) and a work position (fig. 7).

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1. Claims 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ettelbruck and White et al. (4972494) and further in view of Berger (6639789).

Ettelbruck, as mentioned above, disclose all the limitations, except for a user interface unit. However, White et al. teaches an inspection system having a user interface unit (140, display 160, fig. 1) to determine whether the packages meet predetermined standards or should be rejected (see col. 3, lines 16-20). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided user interface unit as taught by White et al. in the packing machine of Ettelbruck to determine whether the packages meet predetermined standards or should be rejected.

The packaging machine of Ettelbruck as modified by White et al. meets all the limitations, except for the user interface box is supported by an adjustable tubular body. However, Berger teaches an adjustable tubular body (440, 452, 450, 462, 464, 1606, 1608) to support the user interface unit (1600, fig. 2A) so that it can be handled ergonomically and (see col. 2, lines 38-40) and for greater flexibility (see col. 3, lines 1-3). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the user interface box supported by an adjustable tubular body as taught by Berger in the modified machine of Ettelbruck so that it can be handled ergonomically and (see col. 2, lines 38-40) and for greater flexibility.

Regarding claim 34, Berger teaches that the connecting cables (1610, fig. 2A) housed in the tubular body.

Regarding claims 36-37, White et al. teaches a display (160, fig. 1) to display the accumulated data and to permit easy operator monitoring of the overall packaging system (see col. 9, lines 15-18). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the display as taught by White et al. in the modified machine of Ettelbruck to display the accumulated data and to permit easy operator monitoring of the overall packaging system.

2. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ettelbruck in view of White et al. (4972494).

Ettelbruck, as mentioned above, disclose all the limitations, except for a conveyor for feeding the packets of cigarettes and a control station comprising a television camera and two mirrors to reflect to the camera a complete view of the packets. However, White et al. teaches a conveyor (16, fig. 7) for feeding the packets of cigarettes (18, fig. 7) and control station (14, fig. 7) comprising a television camera (358, fig. 7) and two mirrors (390, 392, fig. 7) to reflect to the camera a complete view of the packets to determine whether the packages meet predetermined standards or should be rejected (see col. 3, lines 16-20). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to having provided the conveyor for feeding the packets of cigarettes and a control station comprising a television camera and two mirrors to reflect to the camera a complete view of the packets as taught by White et al. in the packing machine of Ettelbruck to determine whether the packages meet predetermined standards or should be rejected.

***Allowable Subject Matter***

3. Claims 29-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 43-48 are allowed.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 7:00 AM-5:30 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hemant M Desai  
Examiner  
Art Unit 3721

HMD



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700